

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CLERK OF COURT
DISTRICT OF MASS.

CHRISTINA R. CURCURU,
Plaintiff,

v.

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY and
AMTRAK,
Defendants.

DOCKET NO.: 03-12599JLT

PLAINTIFF'S MOTION FOR CORI RECORD OF ERIC HARDY

Now comes the Plaintiff in the above-captioned matter, and respectfully moves this Honorable Court, pursuant to Massachusetts General Laws c.6, §172(c), to enter an Order allowing the Plaintiff access to conviction and probation records of Eric Hardy and all CORI criminal record information in the custody and control of the Probation Department and/or the Criminal History Systems Board ("CHSB"), and the right to secure a certified copy of Mr. Hardy's convictions and appearance of counsel. This CORI information is sought for trial strategy and/or cross-examination purposes at trial of this matter.

By way of background, on November 27, 2001, Plaintiff Christina Curcuru was a passenger aboard the Amtrak/MBTA commuter-rail train, Rockport Line. At that time and place, a train employee, Eric Hardy, approached Ms. Curcuru. Mr. Hardy then lured Ms. Curcuru into an empty train car on the pretext of having a friendly conversation.

Upon reaching the empty train car, Mr. Hardy initiated sexual advances toward Ms. Curcuru. Ms. Curcuru became uncomfortable when Mr. Hardy began attempting to kiss and grope Ms. Curcuru's person. At this point Ms. Curcuru became apprehensive and fearful for her safety and could not depart the empty train car.

When Ms. Curcuru rejected Mr. Hardy's sexual advances he exposed his body in a most lewd and indecent manner. After exposing himself, Mr. Hardy started to masturbate in front of Ms. Curcuru. Still fearful and apprehensive, Ms. Curcuru was forced to watch as Mr. Hardy masturbated until he ejaculated on her person.

Subsequently, Mr. Hardy was appropriately arrested and charged with indecent assault and battery as well as open and gross lewdness in Peabody District Court. As a result of the ordeal, Ms. Curcuru was caused to suffer severe emotional distress.

Eric Hardy's CORI record, would allow the plaintiffs access to the criminal charges arising out of this incident, from which the Plaintiff could contact the Essex D.A.'s Office to obtain a copy of all related records.

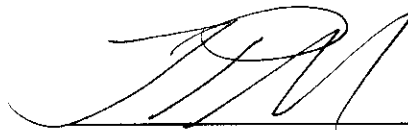
Answering further, Plaintiff states:

1. Pursuant to Massachusetts General Laws, c. 6 §172(c), Counsel of record certifies he seeks criminal offender records information of Eric Hardy exclusively for trial strategy and/or cross-examination purposes and will not otherwise disclose it to any unauthorized person pursuant to Massachusetts General Laws c.6, §172(c);
2. Pursuant to its regulations, the keeper of criminal records and history for the Commonwealth, CHSB, will not release CHSB records without a Court Order;
3. Plaintiff's Counsel, John P. Matheson, certifies by Affidavit, attached hereto, that the conviction and probation records and any and all other history contained in CSHB custody will be used exclusively for trial strategy and/or impeachment purposes and will not otherwise be disclosed to any person who is not statutorily authorized access to Criminal Offender Record Information pursuant to Massachusetts General Laws, c. 6 §167 et seq. or 803 CMR 1.00 et seq;
4. The United States Constitution, Amendments VI and XIV, require that Counsel have access to the aforementioned CSHB information;
5. The Massachusetts Declaration of Rights, Article XII, requires that Counsel have access to the aforementioned CHSB information;

WHEREFORE, Plaintiffs respectfully move that this Honorable Court issue an Order allowing access to conviction and probation records, and any and all records in the custody and control of the CSHB, regarding Eric Hardy, as well as access to a certified copy of the disposition and appearance of counsel from whatever Courts Mr. Hardy appeared in and was convicted or plead guilty in.

A draft Order is enclosed for the Court's convenience.

Respectfully Submitted, Plaintiff Christina Curcuru, by her attorney:



John P. Matheson BBO# 651742
SWARTZ MCKENNA & LYNCH, LLP
Old City Hall
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Boston, MA 02108
617-367-2882

CERTIFICATE OF SERVICE

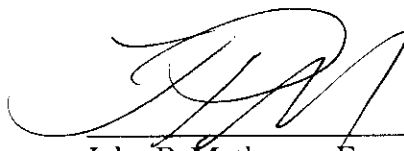
I, John P. Matheson, counsel for Plaintiffs, do hereby certify that on this 19th day of February, 2004, I caused to be served a true copy of the foregoing upon Defendants, by mailing same, first class mail, postage pre-paid to their counsel of record:

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